NOTES OF CASES.

Banks and Banking—Right of Federal Reserve Bank to Force Non-member Banks to Cash Checks at Par.—In American Bank and Trust Co. *v.* Federal Revenue Bank of Atlanta, 41 Sup. Ct. 499, the Supreme Court of the United States held that a bill, which alleged that a federal reserve bank had adopted the practice of collecting checks drawn on the plaintiff banks until a considerable number were on hand and then demanding payment in cash over counter for the purpose of forcing the banks on which they were drawn either to join the federal reserve system or to cease to do business, states a ground for relief, notwithstanding the right of the holder of a check to demand payment thereof in cash.

The court said in part: "The defendants say that the holder of a check has a right to present it to the bank upon which it was drawn for payment over the counter, and that however many checks he may hold he has the same right as to all of them and may present them all at once, whatever his motive or intent. They ask whether a mortgagee would be prevented from foreclosing because he acted from disinterested malevolence and not from a desire to get his money. But the word 'right' is one of the most deceptive of pitfalls; it is so easy to slip from a qualified meaning in the premise to an unqualified one in the conclusion. Most rights are qualified. A man has at least as absolute a right to give his own money as he has to demand money from a party that has made no promise to him; yet if he gives it to induce another to steal or murder the purpose of the act makes it a crime.

"A bank that receives deposits to be drawn upon by check of course authorizes its depositors to draw checks against their accounts and holders of such checks to present them for payment. When we think of the ordinary case the right of the holder is so unimpeded that it seems to us absolute. But looked at from either side it cannot be so. The interests of business also are recognized as rights, protected against injury to a greater or less extent, and in case of conflict between the claims of business on the one side and of third persons on the other lines have to be drawn that limit both. A man has a right to give advice but advice given for the sole purpose of injuring another's business and effective on a large scale, might create a cause of action. Banks as we know them could not exist if they could not rely upon averages and lend a large part of the money that they receive from their depositors on the assumption that not more than a certain fraction of it will be demanded on any one day. If without a word of falsehood but acting from what we have called disinterested malevolence a man by persuasion should organize and carry into effect a run upon a bank and ruin it, we cannot doubt that an action would lie. A similar result even if less complete in its effect is to be expected from

the course that the defendants are alleged to intend, and to determine whether they are authorized to follow that course it is not enough to refer to the general right of a holder of checks to present them but it is necessary to consider whether the connection of checks and presenting them in a body for the purpose of breaking down the petitioner's business as now conducted is justified by the ulterior purpose in view.

"If this were a case of competition in private business it would be hard to admit the justification of self interest considering the now current opinions as to public policy expressed in statutes and decisions. But this is not a private business. The policy of the Federal Reserve Banks is governed by the policy of the United States with regard to them and to these relatively feeble competitors. We do not need aid from the debates upon the statute under which the Reserve Banks exist to assume that the United States did not intend by that statute to sanction this sort of warfare upon legitimate creations of the States."

Constitutional Law—Right to Public Trial in Prosecution for Seduction.—In State *v.* Jordan, 196 Pac. 565, the Supreme Court of Utah held that in view of Const. art. 1, sec. 12, as to the right to a public trial, in a prosecution for having carnal knowledge of a female under 18 the ruling of the trial court excluding not only the public generally but every friend and relative of the accused, including his mother, although the prosecutrix and her father were permitted to stay in the courtroom, was a denial of the right to "public trial," not justified by a statute apparently vesting the court with discretion in such a case.

The court said in part: We cannot conceive of a case, no matter how revolting and disgusting the details of the testimony given, in which the near relatives and friends of the accused should not be permitted to be in attendance upon the trial for the purpose of seeing that the accused is fairly and justly dealt with by the officers of the court and not improperly condemned. In the case of People *v.* Hartman, 103 Cal. 243, 37 Pac. 154, 42 Am. St. Rep. 108, the same question as here considered was before the Supreme Court of California under a constitutional provision like our own. The right to a public trial had been denied the defendant. Mr. Justice Garoutte, who wrote the opinion, in commenting upon the procedure of the trial court, said:

'This was a novel procedure, and has no justification in the law of modern times. We know of no case decided in this country supporting the course of procedure here pursued. It is in direct violation of that provision of the Constitution which says that a party accused of a crime has a right to a public trial. The fact that the officers of the court were allowed to be present in no way made the trial public.